

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JENNIFER S. STEPHENS, and
URIAN R. STURGIS on behalf of their
minor child, YAHRAEL STURGIS,

Plaintiffs,

v.

Case No. 06-13243

SARAH ZACHMAN, JENNIFER
STEVENS. MICHAEL PATTY,
KAREN HAYES, BERNICE HARRIS,
RICHARD McKNIGHT, and LAURA SHELDON,

HONORABLE AVERN COHN

Defendant.

ORDER DISMISSING COMPLAINT UNDER 28 U.S.C. § 1915(e)(2)

I.

Plaintiffs Jennifer Stephens and Urian R. Sturgis filed this action on behalf of themselves and their minor child, Yahrael Sturgis. They name Sarah Zachman, Jennifer Stevens, Michael Patty, Karen Hayes, Bernice Harris, Richard McKnight and Laura Sheldon as defendants. Plaintiffs are proceeding pro se and in forma pauperis. For the reasons that follow, the Court shall dismiss the complaint as frivolous under 28 U.S.C. § 1915(e)(2).

II.

The screening procedures under § 1915 apply to complaints filed by non-prisoners and prisoners. McGore v. Wrigglesworth, 114 F.3d 601, 604 (6th Cir. 1997). Section 1915(e)(2) allows the Court to dismiss a complaint at any time if it determines

that the case is frivolous or malicious, that the plaintiff fails to state a claim upon which relief may be granted, or that the complaint seeks relief against a defendant who is immune from such relief. A complaint “is frivolous where it lacks an arguable basis either in law or in fact.” Neitzke v. Williams, 490 U.S. 319, 325 (1989).

The Court has read the complaint. From what can be gleaned, plaintiffs’ minor child, Yahrael Sturgis, was taken into protective custody shortly after her birth. Plaintiffs’ other children are also in protective custody. Plaintiffs say Yahrael was unjustly and unlawfully removed from their home. Plaintiffs also say their Native American ancestry played a role in their children being taken into protective custody. Defendants are purportedly employed by Child Protective Services. Plaintiffs have asserted several claims against defendants including: civil conspiracy, criminal conspiracy, hindering prosecution, fraud, misuse of federal funds, intimidation, harassment, coercion, perjury, obstruction of justice, malicious prosecution and bribery. They cite 18 U.S.C. §§ 2, 3, 4, 241, 286, 645, 666, 1001, 1341, 1512, 1621, 1623, 1968; and 42 U.S.C. §§ 1901-63, and 1983. Plaintiffs also say their First, Fourth, Seventh, and Fourteenth Amendment rights have been violated. They seek injunctive relief in the form of the return of plaintiffs’ four children, immediate indictment and prosecution of all defendants, immediate investigation by the Department of Justice for misuse of federal funds and “conflict of interest of defendants in this claim operating in children agencies,” the arrest of defendants, and damages in the amount of five million dollars for each wrongful act of the defendants, and \$5,000 a day for every day that Yahrael Sturgis spends in foster care, plus costs and attorney fees.

Although it appears that plaintiffs have attempted to invoke the Court’s federal

question jurisdiction, the complaint does not set forth allegations reasonably suggesting plaintiffs might have a federal claim. Moreover, plaintiffs are objecting to actions taken by a state agency, and its employees, regarding child custody matters. Federal courts have long declined to hear cases involving “elements of the domestic relationship,” including child custody issues, as they are matters for the state. See Ex parte Burrus, 136 U.S. 586 (1890); Ankenbrandt v. Richards, 504 U.S. 689 (1992).

Accordingly, the complaint is DISMISSED as frivolous under 28 U.S.C. § 1915(e)(2). In light of this disposition, the Court certifies that any appeal also would be frivolous. 28 U.S.C. § 1915(a)(3).

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: July 28, 2006

I hereby certify that a copy of the foregoing document was mailed to the parties of record on this date, July 28, 2006, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160